IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.K.DENESAN

FRIDAY, THE 1ST DECEMBER 2006 / 10TH AGRAHAYANA 1928

WP(C).No. 19617 of 2006(I)

PETITIONER:

LILLY PAPPACHAN,
VITHAYATHIL HOUSE, "ROY BHAVAN",
KODAKARA P.O., THRISSUR DISTRICT.

BY ADV. SRI.S.P.ARAVINDAKSHAN PILLAY
SMT.N.SANTHA
SRI.K.A.BALAN
SRI.PETER JOSE CHRISTO

RESPONDENTS:
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1. DIRECTOR OF PANCHAYATHS,
THIRUVANANTHAPURAM.

2. DEPUTY DIRECTOR OF PANCHAYATS,
THRISSUR.

BY GOVERNMENT PLEADER SRI.BIJOY CHANDRAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 01/12/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.K.DENESAN, J

W.P.(C)NO. 19617 of 2006

Dated this the 1st day of December, 2006

JUDGMENT

The petitioner is the widow of late V.V.Pappachan who retired from service on superannuation on 30.6.2004 from the post of Upper Division Clerk in Manalur Grama Panchayath. Sri.Pappachan died on 10.5.2005. His terminal benefits were not disbursed until his death. The petitioner approached the authorities claiming DCRG and other retirement benefits due to her late husband. Ext.P2 is the proceedings of the Accountant General admitting the pensionary claims of late Sri.Pappachan. Revised death cum retirement gratuity comes to Rs.1,44,900/=. Having not received any response to the request made by the petitioner for payment of the above amount, she has approached this Court.

2. Respondent No.1 Director of Panchayaths has filed a detailed counter affidavit. In paragraph 2 of the counter affidavit, it is stated that during the life time of late Sri.Pappachan he was served with memo of charges raising various allegations including official lapse on his part which works out to a pecuniary loss of Rs.1,87,762/= to the

Panchayath. According to the respondents, the petitioner was informed of the above liability as per letter dated 8.2.2006 of the Deputy Director of Panchayaths. Liability Certificate/Non Liability Certificate has not been received from the Panchayaths where late Sri.Pappachan had worked during his service period.

3. Learned counsel for the petitioner submits that the petitioner did not receive any communication from the Deputy Director as wrongly stated in paragraph-2 of the counter affidavit. It is contended that the petitioner had not been informed of any liability and no quantification of the liability has been done with notice to her. No such quantification was done with notice to late Pappachan also to the best of knowledge of the petitioner. It is, therefore, contended that the petitioner cannot be denied the retirement benefits due to late Sri.Pappachan, after his death.

4. A perusal of the relevant files would go to show that memo of charges were framed against late Pappachan. Various charges framed against him would show that the pecuniary loss said to have been sustained to the Panchayat pertains to the period from 1998-1999 to 2001-2002. A major share of the alleged loss is on account of non collection of entertainment taxes and other charges from film exhibitors within the area of the Panchayath. Late sri.Pappachan was

working as Upper Division Clerk. Until he retired from service on 30.6.2004, there was no quantification of the alleged loss. Against the memo of charges issued to him, he had filed a written statement of defence denying the charges. The respondents did not pursue the action taken against Sri.Pappachan. On his death, the respondents dropped the proceedings against him. No notice was issued to the legal heirs calling upon them to account for the alleged liability. Therefore, in the eye of law, there is no valid order which can be pressed into service by the respondents so as to mulct the legal heirs with the alleged liability. If the proceedings had been expeditiously completed while Sri.Pappachan was in service, it could probably have been contended that such proceedings were initiated and promptly completed at a time when the person who was aware of the liability and who was primarily responsible the same was afforded reasonable opportunity to meet the charges. But it is seen from the records that proceedings were initiated against Pappachan only at the fag end of his service. That is the main reason which compelled the authorities to abandon those proceedings, on the death of Sri.Pappachan. Under such circumstances, it will be sheer injustice to deny the retirement benefits due to late Pappachan to the legal heirs of late Sri.Pappachan. Any enquiry to ascertain reason for the alleged non collection or the

actual amount of liability, after the death of Sri.Pappachan, and bringing the legal heirs on the party array will be farce and futile.

5. Hence, there shall be an order directing the respondents to disburse the petitioner the DCRG due to late Sri.Pappachan, as early as possible. The amount admitted as DCRG as per Ext.P2 shall be disbursed within two months on receipt of a copy of the judgment. The claim for interest is disallowed.

Writ Petition is disposed of.

K.K.DENESAN, JUDGE

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